

ESSAY EXAMINATION INSTRUCTIONS

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem.

You should answer the questions according to legal theories and principles of general application.

Question 1

A state statute requires motorcyclists to wear a safety helmet while riding, and is enforced by means of citations and fines. Having mislaid his helmet, Adam jumped on his motorcycle without one and went riding down the street. Barb, who was driving her car in the opposite direction on the same street, briefly looked down to get her sunglasses, which had dropped to the floor. At that moment a bee landed on Adam's head. In attempting to brush it away, he lost control of the motorcycle. The motorcycle fell and went sliding over the double line into Barb's lane with Adam pinned beneath it. When Barb retrieved her sunglasses and looked ahead, she saw that the motorcycle was sliding towards her, going the wrong way in her lane. She abruptly turned her wheel to avoid hitting it, crossed over the double line, and collided head-on with a truck that was approaching her at twice the posted speed limit. The truck, owned and driven by Dave, was badly damaged in the collision, as was Barb's car. Barb was seriously injured when the force of the collision threw her against her own seat belt, breaking her sternum.

On what theory or theories might damages be recovered, and what defenses might reasonably be raised in actions by:

1. Barb against Adam? Discuss.
2. Barb against Dave? Discuss.

Question 2

CapCo sells baseball caps to youth leagues and recently approached two new teams, the Bears and the Lions. Uncertain how many caps the team would require, the Bears' team manager signed a written contract that included the following:

"The Bears will purchase all baseball caps needed for the 2006 season (approximately 75-100 caps) from CapCo @ \$7.50 per cap. All modifications to this contract must be in writing to be enforceable."

When the Bears team manager subsequently placed the baseball cap order with CapCo, he informed CapCo that fewer kids had signed up than had been expected, and, consequently, the Bears needed only 50 caps. CapCo responded that such small orders generated less profit and would accordingly trigger a higher price of \$8.50 per cap. The Bears team manager orally agreed to that higher price.

CapCo also contacted the Lions, whose team manager was considering several baseball cap suppliers. CapCo sent the Lions manager a letter that stated: "I can offer you a special deal for a limited time. CapCo will provide 100 caps @ \$2.50 per cap, delivery within one week."

Upon seeing CapCo's letter, the Lions manager was excited about the proposed contract price and immediately mailed her acceptance to CapCo. Before receiving the Lions manager's response, CapCo realized that its offer contained a clerical error—the price was supposed to be \$6.50, not \$2.50, per cap. CapCo immediately telephoned the Lions manager and informed her of the clerical error.

The Bears refuse to pay \$8.50 instead of \$7.50 for each of the 50 caps. CapCo contends that the Bears must order at least 75 caps to obtain the \$7.50 per cap price. The Lions want to enforce the \$2.50 per cap price.

1. If CapCo files a lawsuit against the Bears seeking damages for breach of contract, who is likely to prevail? Discuss.
2. If the Lions file a lawsuit seeking to enforce the contract price of \$2.50 per baseball cap, who is likely to prevail? Discuss.

Question 3

Dan separated from his wife, Bess, and moved out of the house they own together. About one week later, on his way to work the night shift, Dan passed by the house and saw a light on. He stopped and rang the bell. Bess answered the door. She was polite, but told him she was getting ready to go out with her girlfriends. As Dan left, he saw a pair of men's shoes in the entryway.

Later that night, Dan told his friend, Fred, about the shoes. Fred said: "Let's go over there and check it out. We'll use my car so Bess won't recognize it." Dan and Fred drove over to the house, and parked a block away, so the car would not be seen by Bess. Fred waited in the car while Dan went around the side of the house, turned over a garbage can and climbed on top to look through the open bedroom window. Dan saw a man, Chris, on the bed with Bess. Dan jumped through the open window and started yelling at Bess, "How could you do this?"

Dan then went to the closet and grabbed his shotgun, which was locked in a plastic case. He turned to Chris, and chased him down the stairs and out of the house, yelling deadly threats. Chris tripped, fell, and hit his head on the front steps. The fall knocked him unconscious.

Bess called the police. When the police arrived, Dan was sitting outside on the front porch holding the shotgun, still in the locked case. Dan told the police that he had chased Chris out because he feared his wife had been in danger.

Fred got out of the car and came over to the scene. The police placed Dan in custody and asked Fred to meet them at the station for further questioning.

1. With what crime or crimes, if any, can Dan reasonably be charged and what defenses, if any, can he reasonably assert? Discuss.
2. With what crime or crimes, if any, can Fred reasonably be charged and what defenses, if any, can he reasonably assert? Discuss.

Question 4

Grain Co. purchases grain from farmers each fall to resell as seed grain to other farmers for spring planting. Because of problems presented by parasites which attack and eat seed grain that is stored for more than a few months, Grain Co., like all seed grain dealers, always treats the seed grain it purchases with an invisible mercury-based chemical to poison these parasites. Grain Co. sells the seed grain loose by the truckload to the farmers who will plant the seed. The Grain Co. trucks display signs that state: "Seed Grain. Not for Use in Food Products."

Farmer Jones bought a truckload of seed grain from Grain Co. She was present when the seed grain was delivered, and supervised the Grain Co. employees who unloaded the seed grain into her silos. She then used some of the seed grain to sow her field. When she found that she had some seed grain left over, she fed it to her dairy cattle.

Farmer Jones sold the milk produced by her dairy cattle to Big Food Stores, Inc. ("Big Food"). Several of the people who bought their milk at Big Food became seriously ill, and the Centers for Disease Control (CDC), a government agency that investigates outbreaks of illness, determined that mercury poisoning was the cause of their illness. CDC traced the mercury to the milk that Farmer Jones sold to Big Food.

On what theory or theories might the injured milk consumers recover damages from, and what defenses should they anticipate, in actions against:

1. Grain Co.? Discuss.
2. Farmer Jones? Discuss.
3. Big Food? Discuss.